

POLICY GUIDANCE**
Race, Color, or National Origin As Considerations in
Adoption and Foster Care Placements

BACKGROUND

On October 20, 1994 President Clinton signed the "Improving America's Schools Act of 1994," Public Law 103-382, which includes among other provisions, Section 551, titled "The Multiethnic Placement Act of 1994" (MEPA).

The purposes of that Act are: to decrease the length of time that children wait to be adopted; to prevent discrimination in the placement of children on the basis of race, color, or national origin; and to facilitate the identification and recruitment of foster and adoptive parents who can meet children's needs.

To accomplish these goals the Act identifies specific impermissible activities by an agency or entity (agency) which receives Federal assistance and is involved in adoption or foster care placements. The law prohibits such agencies from "categorically denying to any person the opportunity to become an adoptive or foster parent solely on the basis of the race, color, or national origin of the adoptive or foster parent or the child" and "from delaying or denying the placement of a child solely on the basis of race, color, or national origin of the adoptive or foster parent or parents involved." Under the Act, these prohibitions also apply to the failure to seek termination of parental rights or otherwise make a child legally available for adoption.

The law does permit an agency to consider, in determining whether a placement is in a child's best interests, "the child's cultural, ethnic, and racial background and the capacity of prospective foster or adoptive parents to meet the needs of a child of this background." If an agency chooses to include this factor among those to be considered in making placement decisions, it must be considered in conjunction with other factors relevant to the child's best interests and must not be used in a manner that delays the placement decision.

The Act also seeks to ensure that agencies engage in active recruitment of potential foster and adoptive parents who reflect the racial and ethnic diversity of the

* Provided by the U.S. Department of Health & Human Services, 1995.

children needing placement. Section 554 of the Act amends Section 422(b) and Part A of Title XI of the Social Security Act. The amendment specifies the following requirements for child welfare services programs: "[Each plan for child welfare services under this part shall . . .] (9) provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the State for whom foster and adoptive homes are needed."

The Multiethnic Placement Act is to be viewed in conjunction with Title VI of the Civil Rights Act of 1964 (Title VI) , which prohibits recipients of Federal financial assistance from discriminating based on race, color, or national origin in their programs and activities and from operating their programs in ways that have the effect of discriminating on the basis of race, color, or national origin.

The Administration for Children and Families (ACF) and the Office for Civil Rights (OCR) in the Department of Health and Human Services (HHS) have the responsibility for implementing these laws. OCR has the responsibility to enforce compliance with Title VI and its implementing regulation (45 CFR Part 80), as well as other civil rights laws. ACF administers programs of Federal financial assistance to child welfare agencies and has responsibility to enforce compliance with the laws authorizing this assistance.

Private, as well as public, adoption and foster care agencies often receive Federal financial assistance, through State Block Grant programs, programs under Title IV-E of the Social Security Act, and discretionary grants. The assistance may reach an agency directly, or indirectly as a subrecipient of other agencies. Receipt of such assistance obligates recipients to comply with Title VI and other civil rights laws and regulations and with the requirements of the Social Security Act. Further, the Civil Rights Restoration Act of 1987 confers jurisdiction over entities any part of which receive any Federal funds.

This guidance is being issued jointly by ACF and OCR, pursuant to Section 553(a) of MEPA, to enable affected agencies to conform their laws, rules, and practices to the requirements of the Multiethnic Placement Act and Title VI.

DISCUSSION

A. Race, Culture, or Ethnicity As A Factor In Selecting Placements

1. Impermissible Activities

In enacting MEPA, Congress was concerned that many children, in particular those from minority groups, were spending lengthy periods of time in foster care awaiting placement in adoptive homes.¹¹ At present, there are over twenty thousand children who are legally free for adoption but who are not in preadoptive homes. While there is no definitive study indicating how long children who are adoptable must wait until placement, the available data indicate the average wait may be as long as two years after the time that a child is legally free for adoption, and that minority children spend, on average, twice as long as non-minority children before they are placed. Both the number of children needing placements and the length of time they await placement increase substantially when those children awaiting termination of parental rights are taken into account.

MEPA reflects Congress' judgment that children are harmed when placements are delayed for a period longer than is necessary to find qualified families. The legislation seeks to eliminate barriers that delay or prevent the placement of children into qualified homes. In particular, it focuses on the possibility that policies with respect to matching children with families of the same race, culture, or ethnicity may result in delaying, or even preventing, the adoption of children by qualified families. It also is designed to ensure that every effort is made to develop a large and diverse pool of potential foster and adoptive families, so that all children can be quickly placed in homes that meet their needs.

¹¹ MEPA applies to decisions regarding both foster care and adoption placements. In discussions regarding the bill, members of Congress focused primarily on problems related to adoption decisions.

In developing this guidance, the Department recognizes that states seek to achieve a variety of goals when making foster or adoptive placements. For example, in making a foster care placement, agencies generally are concerned with finding a home that the child can easily fit into, that minimizes the number of adjustments that the child, already facing a difficult situation, must face, and that is capable of meeting any special physical, psychological, or educational needs of the child. In making adoption placements, agencies seek to find homes that will maximize the current and future well-being of the child. They evaluate whether the particular prospective parents are equipped to raise the child, both in terms of their capacity and interests to meet the individual needs of the particular child, and the capacity of the child to benefit from membership in a particular family.

Among the factors that many state statutes, regulations, or policy manuals now specify as being relevant to placement decisions are the racial, ethnic, and cultural background of the child. Some states specify an order of preference for placements, which make placement in a family of the same race, culture, or ethnicity as the child a preferred category. Some states prescribe set periods of time in which agencies must try to place a child with a family of the same race, culture, or ethnicity before the child can be placed with a family of a different race, culture, or ethnicity. Some states have a general preference for same race or ethnicity placements, although they do not specify a placement order or a search period. And some states indicate that children should be placed with families of the same race or ethnicity provided that this is consistent with the best interests of the child.

Establishing standards for making foster care and adoption placement decisions, and determining the factors that are relevant in deciding whether a particular placement meets the standards, generally are matters of state law and policy. Agencies which receive Federal assistance, however, may use race, culture, or ethnicity as factors in making placement decisions only insofar as the Constitution, MEPA, and Title VI permit.

In the context of child placement decisions, the United States Constitution

and Title VI forbid decision making on the basis of race or ethnicity unless the consideration advances a compelling governmental interest. The only compelling governmental interest, in this context, is protecting the "best interests" of the child who is to be placed. Moreover, the consideration must be narrowly tailored to advancing the child's interests and must be made as an individualized determination for each child. An adoption agency may take race into account only if it has made an individualized determination that the facts and circumstances of the specific case require the consideration of race in order to advance the best interests of the specific child. Any placement policy that takes race or ethnicity into account is subject to strict scrutiny by the courts to determine whether it satisfies these tests. Palmore v. Sidoti, 466 U.S. 429 (1984).

A number of practices currently followed by some agencies clearly violate MEPA or Title VI. These include statutes or policies that:

- establish time periods during which only a same race/ethnicity search will occur;
- establish orders of placement preferences based on race, culture, or ethnicity;
- require caseworkers to specially justify transracial placements; or
- otherwise have the effect of delaying placements, either before or after termination of parental rights, in order to find a family of a particular race, culture, or ethnicity.

Other rules, policies, or practices that do not meet the constitutional strict scrutiny test would also be illegal.

2. Permissible Considerations

MEPA does specifically allow, but not require, agencies to consider "the child's cultural, ethnic, and racial background and the capacity of prospective foster or adoptive parents to meet the needs of a child of this background" as one of the factors in determining whether a particular placement is in a child's best interests.

When an agency chooses to use this factor, it must be on an individualized

basis. Agencies that provide professional adoption services usually involve prospective parents in an educative family assessment process designed to increase the likelihood of successful placements. This process includes providing potential adoptive parents with an understanding of the special needs of adoptive children, such as how children react to separation and maltreatment and the significance of the biological family to a child. Adoption specialists also assess the strengths and weaknesses of prospective parents. They help them decide whether adoption is the right thing for them and identify the kind of child the family thinks it can parent. Approved families are profiled, as are the waiting children.

When a child becomes available for adoption, the pool of families is reviewed to see if there is an available family suitable for the specific child.²² where possible, a number of families are identified and the agency conducts a case conference to determine which family is most suitable. The goal is to find the family which has the greatest ability to meet the child's psychological needs.³³ The child is

² Among the child-related factors often considered are:

- the child's current functioning and behaviors;
- the medical, educational and developmental needs of the child;
- the child's history and past experience;
- the child's cultural and racial identity needs;
- the child's interests and talents; the child's attachments to current caretakers.

³ Among the factors that agencies consider in assessing a prospective parent's suitability to care for a particular child are:

- ability to form relationships and to bond with the specific child;
- the ability to help the child integrate into the family;
- the ability to accept the child's background and help the child cope with her or his past;
- the ability to accept the behavior and personality of the specific child;
- the ability to validate the child's cultural, racial and ethnic background;
- the ability to meet the child's particular
- educational, developmental or psychological needs.

discussed with the family, and decisions are made about the placement of the specific child with the family. This process helps prevent unsuccessful placements, and promotes the interest of children in finding permanent homes.

To the extent that an agency looks at a child's race, ethnicity, or cultural background in making placement decisions, it must do so in a manner consistent with the mode of individualized decision-making that characterizes the general placement process for all children. Specifically, in recruiting placements for each child, the agency must focus on that child's particular needs and the capacities of the particular prospective parent(s).

In making individualized decisions, agencies may examine the capacity of the prospective parent(s) to meet the child's psychological needs that are related to the child's racial, ethnic, or cultural background. This may include assessing the attitudes of prospective parents that relate to their capacity to nurture a child of a particular background. Agencies are not prohibited from discussing with prospective adoptive and foster parents their feelings, capacities and preferences regarding caring for a child of a particular race or ethnicity, just as they discuss issues related to other characteristics, such as sex, age, or disability; nor are they prohibited from considering the expressed preference of the prospective parents as one of several factors in making placement decisions.

Agencies may consider the ability of prospective parents to cope with the particular consequences of the child's developmental history and to promote the development of a positive sense of self, which often has been compromised by maltreatment and separations. An agency also may assess a family's ability to nurture, support, and reinforce the racial, ethnic, or cultural identity of the child and to help the child cope with any forms of discrimination the child may encounter. When an agency is making a choice among a pool of generally qualified families, it may consider whether a placement with one family is more likely to benefit a child, in the ways described above or in other ways that the agency

considers relevant to the child's best interest.

Under the law, application of the "best interests" test would permit race or ethnicity to be taken into account in certain narrow situations. For example, for children who have lived in one racial, ethnic, or cultural community, the agency may assess the child's ability to make the transition to another community. A child may have a strong sense of identity with a particular racial, ethnic, or cultural community that should not be disrupted. This is not a universally applicable consideration. For instance, it is doubtful that infants or young children will have developed such needs. Ultimately, however, the determination must be individualized. Another example would be when a prospective parent has demonstrated an inability to care for, or nurture self-esteem in, a child of a different race or ethnicity. In making such determinations, an adoption agency may not rely on generalizations about the identity needs of children of a particular race or ethnicity or on generalizations about the abilities of prospective parents of one race or ethnicity to care for, or nurture the sense of identity of, a child of another race, culture, or ethnicity. Nor may an agency presume from the race or ethnicity of the prospective parents that those parents would be unable to maintain the child's ties to another racial, ethnic, or cultural community.

B. Recruitment Efforts

As recognized in the Multiethnic Placement Act, in order to achieve timely and appropriate placement of all children, placement agencies need an adequate pool of families capable of promoting each child's development and case goals. This requires that each agency's recruitment process focuses on developing a pool of potential foster and adoptive parents willing and able to foster or adopt the children needing placement. The failure to conduct recruitment in a manner that seeks to provide all children with the opportunity for placement, and all qualified members of the community an opportunity to adopt, is inconsistent with the goals of MEPA and could create circumstances which would constitute a violation of Title VI.

An adequate recruitment process has a number of features. Recruitment efforts should be designed to provide to potential foster and adoptive parents throughout the community information about the characteristics and needs of the available children, the

nature of the foster care and adoption processes, and the supports available to foster and adoptive families.

Both general and targeted recruiting are important. Reaching all members of the community requires use of general media- radio, television, and print. In addition, information should be disseminated to targeted communities through community organizations, such as religious institutions and neighborhood centers. The dissemination of information is strengthened when agencies develop partnerships with groups from the communities from which children come, to help identify and support potential foster and adoptive families and to conduct activities which make the waiting children more visible.

To meet MEPA's diligent efforts requirements, an agency should have a comprehensive recruitment plan that includes:

- a description of the characteristics of waiting children;
- specific strategies to reach all parts of the community;
- diverse methods of disseminating both general and child specific information;
- strategies for assuring that all prospective parents have access to the home study process, including location and hours of services that facilitate access by all members of the community;
- strategies for training staff to work with diverse cultural, racial, and economic communities;
- strategies for dealing with linguistic barriers;
- non-discriminatory fee structures; and standards related
- procedures for a timely search for prospective parents for a waiting child, including the use of exchanges and other interagency efforts, provided that such procedures must insure that placement of a child in an appropriate household is not delayed by the search for a same race or ethnic placement.

Agencies receiving Federal funds may not use are to income, age, education,

family structure, and size or ownership of housing, which exclude groups of prospective parents on the basis of race, color, or national origin, where those standards days after the close of the first state legislative session arbitrary or unnecessary or where less exclusionary standards are available.

ENFORCEMENT

As provided in Section 553(d)(1) of MEPA, covered agencies or entities are required to comply with the Act no later than six months after publication of this guidance or one year after the date of the enactment of this Act, whichever occurs first, i.e., October 21, 1995. Pursuant to Section 553(d)(2) of MEPA, if a state demonstrates to the satisfaction of the Secretary of HHS that it is necessary to amend state statutory law in order to change a particular practice that is inconsistent with MEPA, the Secretary may extend the compliance date for the state a reasonable number of beginning after April 25, 1995. In determining whether to extend the compliance date, the Secretary will take into account the constitutional standards described in Part A of this guidance. Because states need not enforce unconstitutional provisions of their laws, statutory amendments are not an essential precondition to coming into compliance with respect to any such provisions.

HHS emphasizes voluntary compliance with the law and recognizes that covered agencies may want further guidance on their obligations under these laws. Accordingly, HHS is offering technical assistance to any covered agency seeking to better understand and more fully comply with the Multiethnic Placement Act. Organizations wishing to be provided with technical assistance on compliance with the nondiscrimination provisions of MEPA should contact Ronald Copeland of OCR at 202-619-0553. Organizations wishing to be provided with technical assistance regarding required recruitment efforts should contact Carol Williams or Dan Lewis of the Administration on Children and Families at 202-205-8618.

The Multiethnic Placement Act provides two vehicles for enforcement of its prohibition against discrimination in adoption or foster care placement. First, pursuant to Section 553(b), any individual who is aggrieved by an action he or she believes

constitutes discrimination in violation of the Act has the right to bring an action seeking equitable relief in a United States district court of appropriate jurisdiction. Second, the Act provides that noncompliance with the prohibition is deemed a violation of Title VI.

OCR has published regulations to effectuate the provisions of Title VI. 45 CFR Part 80. Any individual may file a complaint with OCR alleging that an adoption or foster care organization funded by HHS makes placement decisions in violation of the Multiethnic Placement Act and Title VI. OCR may also initiate If OCR determines that an adoption or foster care organization makes discriminatory placement decisions, OCR will first seek voluntary compliance with the law. Should attempts at voluntary compliance prove unsuccessful, OCR will take further steps to enforce the law.

These steps may involve referring the matter to the Department of Justice with a recommendation that appropriate court proceedings be brought. HHS may also initiate administrative proceedings leading to the termination of the offending agency's Federal financial assistance. These proceedings include the opportunity findings made against it. 45 CFR 80.8.

At any point in the complaint investigation process or during the pendency of fund termination proceedings, organizations may agree to come into voluntary compliance with the law. OCR will work closely with organizations to develop necessary remedial actions, such as training of staff in the requirements of Title VI and MEPA, to ensure that their efforts at compliance are successful.

When a state fails to develop an adequate recruitment plan and expedite the placement of children consistent with MEPA, the Secretary through ACF and OCR will provide technical assistance to the state in the development of the plan and where necessary resolve through corrective action major compliance issues. When these efforts fail the Secretary will make a determination of appropriate proportional penalties.

THE MULTIETHNIC PLACEMENT ACT (MEPA)*

Fact Sheet

What is MEPA?

- ▶ MEPA is the Multi-Ethnic Placement Act, signed into law by President Clinton in October, 1994. MEPA is designed to:
 - Prevent discrimination in the placement of children on the basis of race, color, or national origin.
 - Facilitate the diligent recruitment of foster and adoptive parents.
 - Increase the number of children who are adopted.
- ▶ MEPA prohibits states or public and private foster care and adoption agencies that receive Federal funds from delaying or denying the placement of any child solely on the basis of race, color or national origin.
- ▶ MEPA permits an agency to consider both a child's cultural, racial, and ethnic background and the capacity of the foster or adoptive parents to meet the needs of a child of a specific background, as one of a number of factors used in determining whether a placement is in the child's best interests. This factor must, however, be applied on an individualized basis, not by general rules.
- ▶ MEPA requires agencies to provide for the diligent recruitment of potential foster and adoptive families that reflect the ethnic and racial diversity of children in the state for whom foster and adoptive homes are needed.

Who are the children MEPA is designed to help?

- ▶ MEPA is intended to help children in foster care who are awaiting adoption. In 1990, approximately 69,000 children in foster care had a goal of adoption. Of those children, parental rights had been terminated for 20,000, so they were legally free to be adopted and awaiting placement in an adoptive home.
- ▶ In particular, MEPA is designed to help children who are harder to place, including minority children. Of the children awaiting adoption at the end of 1990, approximately 46% had already waited two years. It takes substantially longer to find homes for minority children.
- ▶ The great majority of the children awaiting adoptive placement have been abused or neglected and are in foster care. A determination has been made that it is unsafe for them to return to their parents.
- ▶ Most of the children are school age; few are infants. In 1990, approximately 4% were under one year old, 36% were ages 1-5, 43% were ages 6-12, and 17% were 12 years and older.
- ▶ Two out of three children legally free and awaiting adoption have special needs: medical, developmental, behavioral or psychological.

Why does it take so long for children to be adopted?

- ▶ Finding adoptive homes for older children and those with emotional or physical problems is difficult, yet most of the children waiting for adoption fall into these categories. While there are many families seeking to adopt, many of these families want young, healthy children.
- ▶ Lengthy processes to terminate parental rights, lack of financial resources for adoption, excessive caseloads and difficulty in recruiting foster and adoptive families contribute to the slow adoption of many of these children.
- ▶ Some states and agencies have policies that discourage transracial placements or that allow lengthy searches for same race families before authorizing transracial placements. Some families are informally discouraged from ever applying to adopt children of a different race or ethnicity. These policies can result in delaying or preventing adoption of children by reducing the number of available families.

How will MEPA help?

- ▶ By preventing discrimination that can cause delays in or denial of adoptive placements, and by increasing recruitment efforts, MEPA should increase the number of children who are adopted.

What are the next steps for states?

- ▶ MEPA allows states one year from enactment, or until October 21, 1995, to bring their policies into compliance with MEPA's non-discrimination provisions (extensions can be granted if additional time is needed to change state statutes). In 1996, states' Title IV-B Child Welfare Services state plans must demonstrate how they will meet the recruitment requirements of MEPA.
- ▶ On April 24, 1995 DHHS issued guidance to assist agencies that receive federal funds for adoption or foster care placements and help ensure compliance with Title VI of the Civil Rights Act of 1964 and MEPA.
- ▶ The Administration for Children and Families (ACF) and the Office for Civil Rights (OCR) of the DHHS will help states and agencies meet the requirements of MEPA and ensure that neither race, color or national origin is used to delay or deny placement of children.

Is MEPA an "unfunded mandate"?

- ▶ No. Under Title IV-E of the Social Security Act, the federal government will match 75% of any state funds used to train staff or foster and adoptive parents; the federal government will match 50% of state administrative funds used for recruitment and child placement activities.

How does the adoption system work?

- ▶ Under state and federal laws, before exploring adoption possibilities, state child welfare agencies are required to try to reunite children with their parents when a child's safety can be assured. States are

required to make a determination regarding reunification or adoption within one year.

- ▶ Between 50 and 70% of all children initially placed in foster care eventually are returned to their parents.
- ▶ When reunification is not possible, state and federal laws require efforts to find a permanent home for a child, preferably through adoption. All state laws require that, before an adoption can take place, the legal rights of the biological parents be severed through a state court proceeding.

Who are the children who need adoptive homes?

- ▶ One group consists of children, primarily infants, whose parents voluntarily relinquish them for adoption; little is known about these children or the nature of their adoptive placements because their parents generally deal with private adoption agencies or make private placements with adoptive families.
- ▶ A second group of children are those who have been placed in foster care based on court determination that they were abused or neglected, and for whom reunification efforts have been unsuccessful.
- ▶ In December 1990, there were approximately 69,000 foster children in the country for whom state agencies had determined that adoption was the appropriate goal. Approximately 20,000 of these children were legally free to be adopted (their parents' legal rights to ever regain custody had been terminated) and were waiting to be adopted.
- ▶ Forty-four percent of the children awaiting adoption were white, 43% African American, 7% Hispanic. Only four percent of these children were under age 1; 36% were between the ages of 1 and 5; 43% were 6-12 years of age; and 17% were over the age of 12. The median age was 7.4 years.
- ▶ Two out of three waiting children have special needs: medical, developmental, behavioral or psychological.

How long do children wait for adoption?

- ▶ Of the children awaiting adoption at the end of 1990, approximately 46% had already waited two years.
- ▶ It takes substantially longer to find homes for minority children. Older children and sibling groups irrespective of race also have longer waits.
- ▶ Many children are never adopted, even though their biological parents' parental rights have been terminated.

Why does it take so long and why do so many children go unadopted?

- ▶ Finding adoptive homes for older children and those with emotional or physical problems requires aggressive action by agencies, and most of the children waiting for adoption fall into these categories.
- ▶ In 1990, 43% of the children waiting for adoption were 6 to 12 years old; only 4% were infants. Two

out of three children -- a doubling since 1982 -- had some special need: they were disabled, older, had siblings, or were minority.

- ▶ Lengthy processes to terminate parental rights, lack of financial resources for adoption, excessive caseloads and difficulty in recruiting foster and adoptive families contribute to the slow adoption of many of these children.
- ▶ There is some evidence that the adoption of minority children is being slowed because some foster care and adoption agencies are unwilling or reluctant to place these children with non-minority families. Some state agencies have followed explicit or implicit policies that make race or ethnicity the primary consideration in placement thus reducing the pool of available families.

What is the Clinton Administration doing to increase adoptions?

- ▶ The Administration is ensuring that states make full and effective use of the Adoption Assistance program, which provides critical economic support to families who adopt special needs children, since they may have large medical and other expenses. Under the Clinton Administration, the number of children for whom adoption subsidies are provided has increased by about 30%.
- ▶ Grants have been provided to public and private agencies to develop successful models for recruiting families, provision of post-legal adoption services, support for parent groups, and the development of training curricula.
- ▶ The Administration has conducted national and regional leadership conferences to build the capacity of public and private agencies to facilitate the adoption of minority and special needs children.
- ▶ The Administration provides support for the National Adoption Exchange, the Adoption Clearinghouse, the National Resource Center for Special Needs Adoption, and the Interstate Compact on Adoption and Medical Assistance.
- ▶ The Administration is committed to fully enforcing the Multiethnic Placement Act, whose non-discrimination and recruitment provisions should increase the number of children who are adopted.
- ▶ The Clinton Administration has expressed strong concerns about "welfare reform" proposals that would jeopardize these programs and eliminate the guarantee of federal funds to help support adoptions.

**THE MULTIETHNIC PLACEMENT ACT (MEPA)
CIVIL RIGHTS ENFORCEMENT PROCESS***
Fact Sheet

What is the general enforcement process of Title VI of the Civil Rights Act of 1964?

- ▶ Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, prohibits discrimination on the basis of race, color, or national origin in programs receiving federal financial assistance.
- ▶ If the Department determines that a recipient of federal financial assistance has unlawfully discriminated on the basis of race, color, or national origin, it must notify the recipient of its finding and seek voluntary compliance. 42 U.S.C. § 2000d-1; 45 C.F.R. § 80.7(d).
- ▶ If attempts to obtain voluntary compliance are unsuccessful, the Department may enforce Title VI by initiating administrative proceedings to terminate federal financial assistance, or it may pursue other means, including referring the matter to the Department of Justice with a recommendation to pursue judicial proceedings. 42 U.S.C. § 2000d-1; 45 C.F.R. § 80.8(a).

How does a state or agency know whether it is impacted by MEPA?

- ▶ If a state or agency receives federal financial assistance, either directly from HHS or indirectly through a state administered HHS program, such as community services block grant funding, it is required to be in compliance with the Multiethnic Placement Act.

How does a state or agency know whether it is In compliance with MEPA?

- ▶ HHS officials are in the process of reviewing state statutes and published agency policies regarding adoption and foster care placement.
- ▶ In the event that the Department determines that a statute or policy authorizes practices inconsistent with MEPA or Title IV, it will notify the state or agency no later than a month after issuance of the guidance.
- ▶ States and agencies should also review their statutes, policies and practices to ensure that they are in compliance.
- ▶ In the meantime, representatives from the Office for Civil Rights and the Administration for Children and Families are available to provide technical assistance to states and agencies to help them come into compliance with the Multiethnic Placement Act.

What if a state or agency is notified that certain practices, statutes or policies are out of compliance?

- ▶ If a state or entity is notified that certain practices, statutes or policies might be out of compliance with the Multiethnic Placement Act, it will need to make necessary changes as soon as feasible. With some limited exceptions, MEPA requires that states and agencies be in compliance no later than October 21, 1995.

- ▶ HHS will work with states and agencies to assist in making the changes necessary for compliance.
- ▶ HHS is committed to assisting all covered agencies or entities to come into voluntary compliance with the Act.
- ▶ If an agency or state voluntarily complies, no enforcement action will be taken.